IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No. 861 of 2005
In
Arbitration Petition No. 334 of 2004
In
Award No. 2 of 2004

Food Corporation of India .. Appellants
V/s.
M/s. Chandu Construction & Anr. .. Respondents

Mr. R.V. Desai, Sr. Counsel i/b. Mr. A.D. Kango for the Appellants
Mr. S.V. Bhatt i/b. Mr. Amit Sheth for the Respondents

CORAM : DR. S. RADHAKRISHNAN &
S.C. DHARMADHIKARI, JJ.
DATED : 14.10.2005.

P.C.:-

1. Heard the learned counsel for the Appellants and the Respondents. We have perused the impugned order dated 14.3.2005, whereby the learned Single Judge had declined to interfere with regard to the award passed by the learned Arbitrator.

2. We have also perused the award passed by the learned Arbitrator. The learned Single Judge has rightly observed that the learned Arbitrator has not committed any error in assessing that the rate that was quoted by the Respondent was the rate only for labour and did not include the cost of material. We do not find any error apparent on the face of Award or any case of misconduct made out.

3. Mr. Desai, the learned Senior Counsel, now for the first time sought to argue that the interest was

awarded by the learned Arbitrator right from 17.4.1989, at which point of time, the damages were not crystalised and in that behalf, Dr. Desai, also referred to a Division Bench Judgment of our High Court in **M.S.E.B. vs. M/s. Bharat Conductors Pvt. Ltd. and others 1996 (2) Mh.L.J. 971.** We are afraid, this issue was neither taken up before the learned Arbitrator nor before the learned Single Judge. In view of that, we are not considering this issue. We do not find any merit in the Appeal. Appeal stands dismissed.

(DR. S. RADHAKRISHNAN, J.)

(S.C. DHARMADHIKARI, J.)